

ENVIRONMENTAL/SANITATION CODE

OF

NEMAHA COUNTY, KANSAS

Chapter 1

ADMINISTRATIVE PROCEDURES

SECTION 1-1.0 AUTHORITY AND POLICY

1-1.1 LEGAL AUTHORITY. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 through 19-3709 as amended. This code shall be enforced pursuant to authority granted unto the Board of County Commissioners, or the duly constituted governing body of Nemaha County, Kansas. Nothing herein is intended to nor constitutes a pre-emption of similar authority conferred upon the Kansas Department of Health and Environment, separately enforcing the Water Well Construction Act, K.S.A. 82a-1201, et seq.

1-1.2 DECLARATION OF FINDING AND POLICY. The County Commissioners find that provisions for adequate and reasonable control over the environmental conditions in unincorporated areas of the county are necessary and desirable; and that it is necessary to adopt a sanitation code to (1) eliminate and prevent the

development of environmental conditions that are hazardous to health and safety, and (2) promote the economical and orderly development of the land and water resource of the county.

For these reasons and objectives, it will be the policy of the Board of County Commissioners to amend this code from time to time with respect to any matter affecting environmental sanitation and safety.

1-1.3 PURPOSE. The purpose and intent of this code is: (1) to prescribe the administrative procedures to be followed in administering this sanitation code or any amendments thereto; (2) to prescribe rules and regulations for controlling practices to minimize health and safety hazards; (3) to establish administrative procedures to facilitate fair and equitable regulation while recognizing the rights of affected persons to receive reasonable prompt processing and to appeal administrative decisions.

1-1.4 TITLE. This code shall be known and referred to as the Nemaha County Environmental/Sanitation Code.

1-1.5 APPLICABILITY. The administrative procedures prescribed in this chapter shall be followed in administering this code and any amendments thereto.

1-1.6 EFFECTIVE DATE. This code shall become effective on and after

its adoption by county resolution.

SECTION 1-2.0 DEFINITIONS

The following words and phrases, when used in this code, shall have the meanings ascribed to them in this section, unless indicated otherwise.

- 1-2.1 ADMINISTRATIVE AGENCY. The entity authorized to implement and enforce the provisions of this code. The Administrative Agency for Nemaha County is Nemaha County Home Health Agency.
- 1-2.2 ADMINISTRATIVE RULES. Those rules and regulations contained in Chapter 1 of this code which prescribe general procedures to be followed in the administration of the code adopted by the county.
- 1-2.3 AGRICULTURAL PURPOSE. This code shall not apply to any premises under one ownership which exceeds 10 acres in area, and which is used only for agricultural purposes. For the purposes of this code "agricultural purpose" means a purpose related to the production of livestock or crops. It does not include the dwelling unit.
- 1-2.4 AUTHORIZED REPRESENTATIVE. Any person who is designated by the Administrative Agency to administer this code.
- 1-2.5 BOARD OF COUNTY COMMISSIONERS. Means the Board of County Commissioners of Nemaha County, Kansas.

- 1-2.6 BOARD OF HEALTH. Means the Nemaha County Board of Health (K.S.A. 65-201).
- 1-2.7 DWELLING UNIT. Any building or structure occupied by a human being on either a full time or part time basis.
- 1-2.8 HEALTH OFFICER. The legally appointed Health Officer of Nemaha County or his/her duly authorized representative.
- 1-2.9 HEARING OFFICER. Means any person designated by the County Commissioners to hear appeals from decisions of the Administrative Agency relating to the enforcement and administration of this code and other environmental/sanitary codes, not subject to enforcement as declared by statute to the county attorney.
- 1-2.10 PERMIT/LICENSE. Means a right formally granted in writing by the Administrative Agency.
- 1-2.11 PERSON. Any municipality, political subdivision, institution, corporation, partnership, association, or individual.
- 1-2.12 PREMISES. Any one or more lots or tracts of land, including all buildings, structures, or facilities located thereon.
- 1-2.13 SANITATION CODE. Procedures, standards, and regulations adopted by the county designed to minimize or control those environments and environmental conditions that may adversely affect the health and well being of the public. Such

environments and environmental conditions may include, but are not restricted to: wastewater and wastewater disposal; water supply; nuisance; food and food handling. Whenever the term "code" is used herein, such reference shall be to the Environmental/Sanitation Code of Nemaha County, Kansas.

SECTION 1-3.0 ADMINISTRATIVE POWERS AND PROCEDURES

1-3.1 RIGHT OF ENTRY. Representatives of the Administrative Agency and/or its designees shall have the power and authority to inspect, exam, and/or survey premises for compliance with the Nemaha County Environmental/Sanitation Code.

1-3.2 OBSTRUCTION OF ADMINISTRATIVE AGENCY. No person shall willfully and knowingly impede or obstruct representatives of the Administrative Agency in the discharge of official duties under the provisions of this code. Any representative denied access to any premises for the purposes authorized in this code shall have authority to seek such injunctive or other legal or equitable relief from the District Court as is necessary to ensure access and compliance with this code.

1-3.3 PERMIT AND LICENSE.

1-3.3.1 APPLICATIONS FOR PERMITS AND LICENSES. All persons required by this code to obtain a permit or license shall make application for such permit or license to the Administrative Agency on

standard forms provided for that purpose.

1-3.3.2 ISSUANCE OF PERMIT OR LICENSE. Within ten (10) working days after the receipt of an application for a permit or license required by this code, the Administrative Agency shall begin such investigations and inspections as necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within thirty (30) days. If the permit or license is denied, the Administrative Agency shall send the applicant a written notice with the reasons for rejection stated thereon.

1-3.3.3 PERMIT NON-TRANSFERABLE. No permit or license shall be transferable, nor shall any fees required and paid therefore be refunded.

1-3.3.4 STANDARD FEES. For the purpose of defraying all or part of the costs of administration of this code, the Board of County Commissioners shall establish a schedule of fees for all permits and licenses required by the code, payable upon submission of application of such permit or license. Said fees shall be paid to the Administrative Agency and a receipt issued.

1-3.4 NOTICES, ORDERS, APPEALS

1-3.4.1 NOTICE OF VIOLATIONS. Whenever the Administrative Agency

determines that there has been or is likely to be a violation of any provisions of this code, the Administrative Agency shall give notice of such violation. The notice a) shall be in writing; b) identify the code violation and the factual basis therefore; c) specify necessary corrective action; d) specify a reasonable period of time for performance of any corrective action and/or work required by the notice. Such notice shall be deemed properly served upon the occupant or owner of the premises when a copy thereof has been sent by registered mail to the last known address of the owner or occupant as identified on the latest county tax rolls.

1-3.4.2 APPEAL FOR HEARING. Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this code shall be entitled to a hearing on the matter before a Hearing Officer; a) provided, that the stated violation is not against a Kansas State Statute, wherein it is the duty of the county attorney to prosecute said violation; b) provided, such person shall have filed with the Administrative Agency within ten (10) working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the objection is made. The filing of the request for hearing shall operate as a stay of the notice

or order, except as provided in paragraph 1-3.4.4 to follow. Upon receipt of such petition the Administrative Agency shall confer with the Hearing Officer and set a time and place for such hearing and shall give the petitioner seven (7) days written notice thereof. Upon request of the petitioner and for good cause shown, the Hearing Officer may continue the hearing from its original setting.

1-3.4.3 REPORT OF HEARING. Within ten (10) working days after the hearing, the Hearing Officer shall submit a written report of his finding to the County Commissioners with a recommendation that the Commissioners issue an order sustaining, modifying or withdrawing the notice or order of the Administrative Agency. Upon receipt of the report of the Hearing Officer, the County Commissioners shall consider the report and issue an order confirming, modifying or withdrawing the notice or order of the administrative agency. The appellant shall be notified in the same manner as is provided for in Section 1-3.4.1. Any appeal from a finding and determination of the County Commissioners shall be to the District Court.

1-3.4.4 EMERGENCY ORDERS. Whenever the Administrative Agency finds that

an emergency exists which requires immediate action to protect the public health, the Administrative Agency, without notice or hearing, will issue an order reciting the existence of such an emergency and require that such action be taken to meet the emergency, including the suspension of the permit. Notwithstanding any other provisions of this code, such order shall be effective immediately and shall be enforceable in Nemaha County District Court.

1-3.5 RECORDS.

1-3.5.1 PERMIT APPLICATIONS. Applications for permits or licenses required by this code shall be filed with the Administrative Agency.

1-3.6 DISCLAIMER OF LIABILITY. This code and other sanitary codes adopted shall not be construed or interpreted as imposing upon the county or its officials or employees a) any liability or responsibility for damages to any property, or b) any warranty that any system, installation or portion thereof that is constructed or repaired under permits and inspections required by code will function properly.

1-3.7 SEPARABILITY. If any clause, sentence, paragraph, section or subsection of this code shall for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and

invalid, such judgement shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof so found unconstitutional and invalid. (K.S.A. 19-3708)

1-3.8 PENALTIES AND ENFORCEMENT PROCEDURES. Any person who shall willfully violate any provision of this code, shall be subject to the penalties provided for such violation pursuant to K.S.A. 1991 Supp. 19-3707. Each day's violation shall constitute a separate fineable offense. In addition, the Administrative Agency is hereby authorized to apply to the District Court for enforcement of this code.

ENVIRONMENTAL/SANITATION CODE

OF

NEMAHA COUNTY, KANSAS

Chapter 2

WASTEWATER AND DISPOSAL

SECTION 2-1.0 PURPOSE AND INTENT OF CODE

The provisions of this chapter are adopted for the purpose of

regulating and controlling the location, construction, maintenance, and use of septic systems, alternate waste water systems, privies, and the removal and disposal of materials removed from such facilities in order to protect the health of the citizens of Nemaha County, to prevent nuisances, and to preserve property and natural resources for future use.

SECTION 2-2.0 APPLICABILITY

Upon adoption, the provisions of this chapter shall apply to all dwelling units or residences located on unincorporated lands of Nemaha County including those associated with but not located on lands used strictly for agricultural purposes as defined in Section 1-2.3 of this code.

SECTION 2-3.0 DEFINITIONS

The words, terms and phrases listed below for purposes of this code shall be defined and interpreted as follows:

- 2-3.1 ABSORPTION FIELD. The term "absorption field" means a configuration of onsite trenches installed to absorb sewage effluent from a septic tank or other sewage solids removal devices.
- 2-3.2 ALTER. Means to make different, modify, or change.
- 2-3.3 ALTERNATIVE WASTEWATER SYSTEM. The term "alternative wastewater system" means any onsite sewage management

system which has proven reliability and performance in field use, but which differs in design or operation from approved conventional septic tank and absorption-field systems.

2-3.4 APPROVAL. Means accepted or acceptable by the Administrative Agency in accordance with applicable specifications stated herein or with additional criteria accepted by the Agency.

2-3.5 DISTANCES. Means horizontal distances unless otherwise designated. Measurements referred to as "not less than", "minimum", "at least" and other similar designations shall mean horizontal distances unless specifically indicated otherwise.

2-3.6 DOMESTIC SEWAGE. Means all water borne wastes produced at family dwellings in connection with ordinary family living, and similar type wastewater produced at offices, churches, industrial and commercial firms, exclusive of storm water, foundation drains and cooling water.

2-3.7 INDUSTRIAL/COMMERCIAL WASTEWATER. (SEWAGE) Means any other liquid or water-borne wastes produced in connection with any industrial or commercial process or operation, other than domestic wastes.

2-3.8 KDH&E. Means the Kansas Department of Health and Environment.

2-3.9 LAGOONS. The term "lagoon" shall mean an artificial pond

designed to exclude surface water and receive raw sewage through a submerged sewer for biological decomposition.

2-3.10 LOT. The term "lot" means the smallest basic portion of a subdivision or other tract of land, normally intended to be developed and transferred individually.

2-3.11 ONSITE SEWAGE MANAGEMENT SYSTEM. The term "onsite sewage management system" means a system that includes a septic tank, absorption field and all other elements intended to be used for management and disposal of sewage onsite. A septic tank-lateral system is an onsite sewage management system.

2-3.12 PRIVY. A facility designed and/or used for the disposal of human excreta.

2-3.13 PUBLIC WASTEWATER SYSTEM. The term "public wastewater system" means any sewage collection, treatment and disposal system, including sewers, treatment plants, pumping stations, force mains and all other elements owned, operated or managed by a public entity (including agents thereof) and serving more than one residential premises.

2-3.14 REGULATORY FLOODWAY. The term "regulatory floodway" means an area designated by the Federal Emergency Management Agency which shall include the channel of a river or other water course and the adjacent land areas that must be reserved in

order to discharge the regulatory flood without cumulatively increasing the water surface elevation of more than one foot on the adjacent land.

2-3.15 REPAIR. Means to make good, strong, or whole after damage, or to maintain in a state of good condition.

2-3.16 SANITARY SERVICES. Means the pumping out and/or removal of wastes, sludge, or human excreta from privies, septic systems, or alternative wastewater systems, and the transportation of such material to a point of final disposal.

2-3.17 SEPTIC TANK (SEPTIC SYSTEM). The term "septic tank" means an approved water tight structure installed underground to receive sewage from a building sewer, effecting separation and organic decomposition of sewage solids and discharging effluent to an absorption field.

2-3.18 SUBDIVISIONS. Means any tract of land that is or has been subdivided into two or more lots in accordance with a recorded plat at the Register of Deeds office for the purpose of sale or building development, whether immediate or future, including the streets, alleys or other portions thereof intended to be dedicated for public use; and any re-subdivision of lands or lots.

2-3.19 TRACT. Means a single unit of real property under one

ownership, outside the corporate limits of a city, platted and/or unplatted, title to which is publicly or privately held by an owner.

2-3.20 WELL. Means an excavation or opening into the ground by which ground water is sought or obtained.

SECTION 2-4.0 PROHIBITED PRACTICES

2-4.1 USE OF NON-APPROVED WASTEWATER SYSTEMS. No person shall sell, use, lease or rent for use any septic system, alternative wastewater system, or privy that:

- a. has been constructed after March 1, 1993 until it has been inspected and approved by the Administrative Agency;
- b. has been temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction;
- c. fails to comply with the provisions of this sanitation code, and written notice thereof has been given by the Administrative Agency to the owner or responsible person; or
- d. receives non-domestic wastewater.

2-4.2 DISPOSAL OF SEWAGE.

- a. No household, industrial or commercial wastes shall be discharged into any watercourse, impoundment, storm sewer or public thoroughfare. The discharge of sewage into seepage pits, abandoned wells, cisterns, streams or upon the surface of

the ground shall be prohibited. In no case shall treated or untreated sewage, or the effluent from a septic tank or onsite sewage management system be permitted to drain directly or indirectly into a ditch or stream, nor shall it be allowed to surface or run or drain across any adjacent land owner.

b. No household, industrial or commercial wastes shall cause fly breeding, produce offensive odors or any other condition that is prejudicial to health and comfort.

2-4.3 USE OF ALTERNATIVE WASTEWATER SYSTEM, SEPTIC SYSTEM, AND/OR PRIVY WITHIN 400 FEET OF PUBLIC WASTEWATER SYSTEM (SEWER).

No alternative wastewater system, septic system or privy shall be constructed, altered or extended within 400 feet of an existing public sewer, unless the Administrative Agency finds that connection to such a sewer is not feasible and that a wastewater system, meeting the requirements of this code, can be constructed on the property.

2-4.4 LOCATION OF ALTERNATE WASTEWATER SYSTEMS OR SEPTIC SYSTEMS BELOW FULL FLOOD POOL OR WITHIN REGULATORY FLOODWAY. No portion of an alternative wastewater system or septic system shall be located below the full flood elevation of any federal reservoir or full pool elevations of any pond, lake or water supply reservoir, or within a regulatory floodway, unless written

approval for location below full flood pool or within a regulatory floodway is obtained from KDH&E and/or Division of Water Resources.

2-4.5 LOCATION OF AN ALTERNATIVE WASTEWATER SYSTEM, SEPTIC SYSTEM OR PRIVY WITHIN 100 FEET OR MORE OF WELL. All portions of an alternative wastewater system, septic system or privy shall be located at least 100 feet or more from a water well or a pump suction line from a water well, unless the facility be of water tight construction. No wastewater line regardless of construction shall be located less than 10 feet from a private water well or its attendant suction line or less than 100 feet from a public water supply well.

2-4.6 CONNECTION TO NON-APPROVED PUBLIC WASTEWATER SYSTEM. No premises shall be permitted to connect to any public wastewater system that does not hold a valid permit from the KDH&E as required in 2-5.2.

2-4.7 APPROVAL OF PLATS AND/OR TRACTS. A permit to operate an onsite waste management system will be issued if the plat(s) or tract(s) contain a building site with two (2) or more acres of land, and the plans and specifications of onsite sewage management system have been approved by the Administrative Agency. This shall be exclusive of roads, streets, or other

public right of way or easements unless a public wastewater system is provided to serve all properties within the subdivision or a surety bond in an amount stipulated by the Board of County Commissioners is filed with the County Treasurer to guarantee the installation of such public system.

SECTION 2-5.0 REQUIREMENTS FOR PUBLIC WASTEWATER SYSTEMS

- 2-5.1 APPROVAL OF PLANS AND SPECIFICATIONS. Plans and specifications for all public wastewater systems shall be submitted to and approved by the KDH&E prior to starting any construction of such systems.
- 2-5.2 PERMIT. The owner of every public wastewater system shall obtain a permit for operation of the system from KDH&E and no public wastewater system shall be operated or put in operations until the owner has obtained the required permit.
- 2-5.3 RESPONSIBILITY FOR OPERATION. Responsibility for operation of all public wastewater systems must be vested in a sewer district, improvement district, or similar public agency authorized to operate public wastewater systems.

SECTION 2-6.0 REQUIREMENTS FOR ONSITE SEWAGE MANAGEMENT SYSTEMS

- 2-6.1 APPROVAL OF PLANS. After March 1, 1993 no person shall

construct or permit to be constructed any onsite sewage management system until the plans and specifications for such system have been approved by the Administrative Agency.

2-6.2 PERMITS REQUIRED.

a. No person shall construct or alter an onsite sewage management system without obtaining construction approval for such purpose from the Administrative Agency. No permit for the construction or alteration of an onsite sewage management system shall be issued until the Administrative Agency has inspected and approved the site and the proposed location and design of the system. A fee shall be charged by the Administrative Agency for the service. No onsite sewage management system constructed or altered may be covered totally or in part until it has been inspected and/or approved by the Administrative Agency. The system may be inspected by the Administrative Agency at any stage of construction.

b. All applicants will be required to sign an application form to acknowledge the sewage system must be inspected and installed according to the approved plan.

2-6.3 DATA REQUIREMENTS

2-6.3.1 RESIDENTIAL. The following shall be submitted to and accepted

by the Administrative Agency before issuance of a permit to construct an onsite sewage management system:

a. A drawing (an 8 1/2" x 11" pencil is recommended), showing the following:

1. Name, address and phone number of applicant and owner.
2. Location of building site, including legal description with section, township and range.
3. Size of house in square feet of finished area, number of bedrooms, number of persons to live in the home and a list of all water using appliances.
4. A drawing of the lot or size, showing:
 - a. overall dimensions of the lot;
 - b. location of building, driveways and geographical features near the proposed lateral field;
 - c. location and type of water supply, and location of water service lines;
 - d. layout of entire onsite sewage management system; septic tank, laterals and interconnecting lines; and
 - e. a cross section of lateral trench, with dimensions.
5. Foundation, footing or any other non-sewage drain location.
6. Arrow indicating North direction.

- b. Other supportive data or information required by the Administrative Agency.

2-5.3.2 COMMERCIAL. The following data shall be submitted to and accepted by the Administrative Agency prior to issuance of a permit to construct an onsite sewage management system:

- a. Name, address and phone number of applicant and owner;
- b. Type of establishment;
- c. Location of building site, including legal description with section, township and range; lot or parcel identification;
- d. Anticipated water usage and peak daily sewage flow;
- e. All water-using equipment or appliances;
- f. Copies of a site plan of the entire property under development showing the following:
 - 1. Overall dimensions of the lot;
 - 2. Location of buildings, structures, driveways, parking, access roads, loading areas, receptacle locations, buffers, public and private easement, and any other geographical features near the proposed onsite waste management system;
 - 3. Location and type of water supply, and location of water service lines;

4. Proposed type, size and location of onsite sewage management system;
 5. Existing and proposed topography;
 6. Proposed drainage.
- g. Other supportive data or information required by the Administrative Agency.
 - h. A letter from the owner or agent for the owner estimating the maximum number of customers, employees, etc., size of building and the specific use of the facilities whether the sanitary facilities are for public use.

2-6.4 SUITABLE SITE. No site shall be approved if:

- a. connection to an approved public sewage system is feasible or the site violates the provisions of Section 2-4.0 of this code;
- b. the soil, topography, and geology violate the requirements set forth in Section 2-8.0.

2-6.5 CONSTRUCTION APPROVAL. All onsite sewage management systems developed or modified after March 1, 1993 must be inspected and/or approved by the Administrative Agency for compliance with the approved plans; and no portion of the system shall be covered or made inaccessible to inspection prior to approval.

2-6.6 PROPER MAINTENANCE AND OPERATION. All persons holding a permit for use of an onsite sewage management system and responsible for its operation, shall operate and maintain the system in good working condition. It shall conform with standard operation practices recommended by KDH&E and not overload the system so as to produce offensive odors, impair the quality of the effluent, or create any condition hazardous to health. Whenever the Administrative Agency shall find any onsite sewage management system malfunctioning, the owner and/or user shall be ordered to correct the condition.

SECTION 2-7.0 REQUIREMENTS FOR ALTERNATIVE WASTEWATER SYSTEMS

When soil, topography, and/or geology do not meet the requirements as set forth in Section 2-8.0, alternative sewage disposal methods will be considered by the Administrative Agency based on each individual case.

2-7.1 LAGOONS. Plans for construction of a single family lagoon shall be submitted to the Administrative Agency for approval and permit. Plans for construction of a lagoon that will serve more than one family shall be submitted to KDH&E for approval and permit. Lots must contain no less than three (3) acres of land to be considered for lagoon construction.

2-7.2 OTHER ALTERNATIVES. Proposals for other alternatives or

experimental sewage disposal systems may be submitted to the Administrative Agency for consideration.

2-7.3 REQUIREMENTS FOR PRIVIES.

2-7.3.1 APPROVAL OF PLANS. No person shall construct or modify any privy until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency.

2-7.3.2 APPROVAL OF CONSTRUCTION. No person shall use or make available for use, any newly constructed or modified privy until the construction has been inspected by the Administrative Agency for compliance with approved plans.

2-7.3.3 PROPER MAINTENANCE. No person shall use, or offer for use, any privy that is not maintained in a clean and sanitary condition.

2-7.3.4 VAULT REQUIRED IN CERTAIN AREAS. In areas where the elevation of the groundwater is within 10 feet of the top of the ground, a watertight vault shall be provided in lieu of the standard pit.

2-7.3.5 LOCATION.

a. No pit privy shall be installed less than 100 feet from an existing well.

b. No pit privy shall be constructed or reconstructed on any premise served by a public water supply, or on which water is

delivered to any building under pressure, unless special permission for use of a privy is obtained from the Administrative Agency and all homeowners within 500 feet of the privy are notified of the proposed construction.

2-7.3.6 WATERLESS TOILETS. With the approval of the Administrative Agency and when meeting specific design requirements, the temporary use of dry or chemical toilets may be allowed in special cases. (i.e. Public events where permanent facilities are not sufficient in number; or while an existing system for a home or business is being repaired, altered or constructed.) All recreational vehicles using waterless toilets must use approved disposal sites.

SECTION 2-8.0 MINIMUM STANDARDS FOR SOIL TOPOGRAPHY AND GEOLOGY.

An onsite sewage system which is dependent upon soil absorption for the disposal of wastewater, shall not be constructed where minimum standards for soil percolation rates (i.e. less than 1" per hour), soil profiles, as determined by the Soil Survey of Nemaha County Kansas or soil borings, and depth to impervious rock or groundwater and distance from surface water (i.e. 100 feet or more) are not met.

SECTION 2-9.0 SANITARY SERVICES

2-9.1 An individual may remove treated domestic wastes from their own septic system, or alternative wastewater system, or privy. The waste may be disposed of by broadcasting it over farm ground, followed by incorporating it into the soil. Before an individual removes domestic wastes from septic systems, alternative wastewater systems or privies other than their own and, in excess of 1000 gallon annually; they shall provide the Administrative Agency with the site and method of disposal. Records will be kept with the Administrative Agency to guard against over usage in an area.

2-9.2 SITE. The disposal site must be approved by the Administrative Agency, County Commissioners, and KDE&E if it is not an already permitted waste management site. Approval will be based on location, acreage, type of waste, frequency of use, plan for maintenance of site so that the quality of ground and surface water will not be impaired.

SECTION 2-10.0 WASTEWATER/SEWAGE SYSTEM INSTALLER

2-10.1 LICENSE REQUIRED. No person shall offer service as a wastewater/sewage system installer, nor shall perform stated service in Nemaha County without a valid license from the

- Administrative Agency. A valid wastewater/sewage system installer license issued to a sole proprietor, a partnership, or a corporation shall be valid as to all its agents and employees.
- 2-10.2 APPLICATION. Application for wastewater/sewage systems installation license shall be applied for through the Administrative Agency.
- 2-10.3 MINIMUM STANDARDS FOR LICENSE APPROVAL OF WASTEWATER/SEWAGE SYSTEM INSTALLER. Knowledge of Nemaha County Environmental/Sanitary Code as indicated by successful completion of a wastewater/sewage system installer license examination administered by the Administrative Agency.
- 2-10.4 FEES. Fees for licensure shall be established by the Board of County Commissioners. Fees will be paid annually for license renewal. After application is approved the installers name goes on a list of licensed installers.
- 2-10.5 CONTRACTING WITH UNLICENSED PERSONS PROHIBITED. A person responsible for operating an alternative wastewater system, septic system or privy shall not contract, or offer to contract with any person for sanitary service unless that person holds a valid permit or license to provide such service from the Administrative Agency.

2-10.6 EXCEPTIONS. If an individual landowner intends to install or alter his/her own wastewater system the Administrative Agency will grant such request without requiring said license based on the installation meeting county sanitary codes and that he/she constructs no more than one system in any one calendar year.

SECTION 2-11.0 WAIVER OF REQUIREMENTS

In unusual cases where compliance with the requirements of Chapter 2 of this code is not feasible, the Administrative Agency shall have the authority, to waive the requirements, provided the agency is furnished with reliable information to show that such waiver does not and will not impair the potability of the groundwater or otherwise endanger the health and safety of the individuals involved and/or the general public.

ENVIRONMENTAL/SANITATION CODE

OF

NEMAHIA COUNTY, KANSAS

Chapter 3

WATER SUPPLIES

SECTION 3-1.0 PURPOSE AND INTENT

The provisions of this code are for the purpose of regulating and controlling the development, maintenance, and use of private or semi-public water supplies in the unincorporated area of Nemaha County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.

SECTION 3-2.0 AREA OF APPLICABILITY

Upon adoption, the provisions of this chapter shall apply to all dwelling units or residences located on unincorporated lands of Nemaha County including those associated with but not located on lands used strictly for agricultural purposes as defined in Section 1-2.3 of this code.

SECTION 3-3.0 COMPLIANCE REQUIRED

After March 1, 1993, no person shall construct on any property subject to this code, any public, semi-public or private water supply that does not comply with the requirements of this code.

SECTION 3-4.0 DEFINITIONS

The words, terms and phrases listed below for purposes of this code shall be defined and interpreted as follows:

3-4.1 ABANDONED WATER WELL. A well:

- a. which has been permanently discontinued from use;
- b. from which the pumping equipment has been permanently

removed;

- c. which is in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer or both;
- d. which possesses potential health and safety hazards;
- e. which is in such a condition it cannot be placed in active or inactive status.

- 3-4.2 ACTIVE WELL. A water well which is an operating well used to withdraw water monitor or observe groundwater conditions.
- 3-4.3 ANNULAR SPACE. The space between the well casing and the well bore or the space between two (2) or more strings of well casing.
- 3-4.4 AQUIFER. An underground formation that contains and is capable of transmitting groundwater.
- 3-4.5 CONFINED AQUIFER. An aquifer overlain and underlain by impermeable layers. Groundwater in a confined aquifer is under pressure greater than atmospheric pressure and will rise in a well above the point at which it is first encountered.
- 3-4.6 CONSTRUCTION OF WATER WELLS. All acts necessary to obtain groundwater by any method for any use including, without limitation, the location of and excavation for the well.
- 3-4.7 DOMESTIC USE. The use of water by any person or family unit

or household for household purposes, or for the watering of livestock,

poultry, farm and domestic animals used in operating a farm, or for the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns.

3-4.8 GROUNDWATER. That part of the subsurface water which is in the zone of saturation.

3-4.9 GROUT. Material such as cement grout, neat cement grout, bentonite clay grout or other material approved by KDH&E used to create a permanent impervious watertight bond between the casing and the undisturbed formation surrounding the casing or between two (2) or more strings of casing.

1. Neat cement grout: A mixture consisting of one (1) ninety four (94) pound bag of portland cement to five (5) to six (6) gallons of clean water.
2. Cement grout: A mixture consisting of one (1) ninety four (94) pound bag of portland cement to an equal volume of sand having a diameter no larger than 0.080 inches (2 millimeters) to five (5) to six (6) gallons of clean water.
3. Bentonite clay grout: A mixture consisting of water and commercial grouting or plugging sodium bentonite clay

containing high solids such as that manufactured under the trade name of "volclay grout", or an equivalent as approved by KDH&E.

a. The mixture shall be as per the manufacturer's recommendations to achieve a weight of not less than 9.4 pounds per gallon of mix. Weighting agents may be added as per the manufacturer's recommendations.

b. Sodium bentonite pellets, tablets or granular sodium bentonite may also be used provided they meet the specifications listed in K.A.R. 28-30-2.

c. Sodium bentonite products that contain low solids, are designed for drilling purposes or that contain organic polymers shall not be used.

3-4.10 GROUT TREMIE PIPE OR GROUT PIPE. A steel or galvanized steel pipe or similar pipe having equivalent structural soundness that is used to conduct pumped grout to a point or selected emplacement during the grouting of a well casing or plugging of an abandoned well or test hole.

3-4.11 HEAT PUMP HOLE. A hole drilled in installed piping for an earth coupled water source heat pump system, also known as a vertical closed loop system.

3-4.12 INACTIVE STATUS. A water well which is not presently operating

but is maintained in such a way it can be put back in operation with a minimum of effort.

- 3-4.13 PITLESS WELL ADAPTER OR UNIT. An assembly of parts installed below frost line which will permit pumped groundwater to pass through the wall of a casing or extension thereof and prevent entrance of contaminants.
- 3-4.14 POTABLE WATER. Water free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming with the latest KDW&E regulations.
- 3-4.15 PRIVATE WATER SUPPLY. A water supply used for domestic purposes which serves not more than one (1) dwelling on a piped system.
- 3-4.16 PUBLIC WATER SUPPLY. A water supply that is used for domestic purposes by ten (10) or more users or serves an average of twenty-five individuals daily at least sixty (60) days out of the year.
- 3-4.17 PUMP PIT. A water tight structure constructed at least two (2) feet away from the water well and below ground level to prevent freezing of pumped groundwater and which houses the pump or pressure tank, distribution lines, electrical controls, or other appurtenances.
- 3-4.18 RECONSTRUCTED WATER WELL. An existing well that has been deepened or has had the casing replaced, repaired, added to or

modified in any way for the purpose of obtaining groundwater.

- 3-4.19 SANITARY WELL SEAL. A manufactured seal installed at the top of the well casing which, when installed, creates an air and watertight seal to prevent contaminated or polluted water from gaining access to the groundwater supply.
- 3-4.20 SEMI-PUBLIC WATER SUPPLY. A water supply used for domestic purposes serving two (2) to nine (9) residential units (rental or under separate ownership) on a piped system.
- 3-4.21 STATIC WATER LEVEL. The highest point below or above ground level which the groundwater in the well reaches naturally.
- 3-4.22 TEST HOLE. Any excavation constructed for the purpose of determining the geologic, hydrologic and water quality characteristics of underground formations.
- 3-4.23 TREATMENT. The stimulation of production of groundwater from a water well through the use of hydrochloric acid, muriatic acid, sulfamic acid, calcium or sodium hypochlorite, polyphosphates or other chemicals and mechanical means, for the purpose of reducing or removing iron and manganese hydroxide and oxide deposits, calcium and magnesium carbonate deposits and slime deposits associated with iron or manganese bacterial growths which inhibit the movement of groundwater into the well.

- 3-4.24 UNCASSED TEST HOLE. Any test hole in which casing has been removed or in which casing has not been installed.
- 3-4.25 UNCONFINED AQUIFER. An aquifer containing groundwater at atmospheric pressure. The upper surface of the groundwater in an unconfined aquifer is the water table.
- 3-4.26 WATER DISTRICT. Any special district authorized and empowered by state statutes to plan, construct and/or operate a public water supply system.
- 3-4.27 WATER WELL. Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed, when the intended use of such excavation is for the location, diversion, artificial recharge, or acquisition of groundwater.
- 3-4.28 WATER WELL CONTRACTOR OR CONTRACTOR. Any individual, firm, partnership, association, or corporation who shall construct, reconstruct, or treat a water well. The term shall not include:
- a. An individual constructing, reconstructing or treating a water well located on land owned by the individual, when the well is used by the individual for farming, ranching, or agricultural purposes or for domestic purposes at the individual's place of abode.
 - b. An individual who performs labor or services for a licensed

water well contractor at the contractor's direction and under the contractor's supervision.

SECTION 3-5.0 REQUIREMENTS FOR PUBLIC WATER SUPPLIES

- 3-5.1 STATE PERMIT. No person shall operate a public water supply without obtaining a permit from KDH&E. A copy of the permit shall be filed with the Administrative Agency.
- 3-5.2 STATE APPROVED PLANS. No person shall construct any public water supply on any property subject to the provisions of this code until the plans and specifications have been submitted to and approved by KDH&E. A copy of the plans and specifications shall be filed with the Administrative Agency.

SECTION 3-6.0 REQUIREMENTS FOR SEMI-PUBLIC WATER SUPPLIES

- 3-6.1 OPERATION AND MAINTENANCE. No person shall operate or maintain a semi-public water supply system that has been:
- a. constructed or reconstructed after adoption of the code, until it has been inspected and a permit issued by the Administrative Agency;
 - b. temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction;
 - c. found by the Administrative Agency not to comply with the provisions of this code and a written notice thereof has been given to the owner or his/her agent.

3-6.2 USE OF A SEMI-PUBLIC WATER SUPPLY. In addition to the requirements of 3-7.0 which pertain to private water wells, the following shall be done and reviewed by the Administrative Agency prior to the issuance of a permit, to assure water quality for the public:

- a. an initial and at least annual bacterial analysis;
- b. a partial chemical analysis is to be done initially and every three (3) years thereafter;
- c. other tests such as a screen for pesticides, volatile organic chemicals, and heavy metals may be required, at the direction of the Administrative Agency, to protect the public's health.

The water samples shall be collected by the Administrative Agency or its designee and sent to the KDH&E lab or other state certified labs for analysis. The fee for the analysis and investigation is the responsibility of the owner of the water supply or his representative.

SECTION 3-7.0 REQUIREMENTS FOR PRIVATE WATER SUPPLIES

3-7.1 PERMIT. No person shall drill, develop or construct any private water supply on any premises subject to the regulations of this code until he/she has obtained a permit therefore from the Administrative Agency.

3-7.2 APPROVED PLANS. No permit to construct or develop a private water supply on premises subject to the regulations of this code shall be issued until the plan showing the location and construction of the supply has been approved by the Administrative Agency.

3-7.3 USE LIMITATION.

- a. Before a permit is issued for drilling a well for a private water supply; the Administrative Agency will assess compliance with state regulations for protection of ground water and/or if the water supply to be accessed constitutes a significant, quantified health risk.
- b. No use of surface water (lakes, ponds, or streams) as a source of water for private water supply shall be permitted:
 1. Where a satisfactory ground water source is available;
 2. Where adequate treatment is not provided, in no case shall surface water be used without filtration and chlorination, and;
 3. Where the pond or lake receives any drainage or discharge from septic tanks, or sewage treatment plants.

SECTION 3-8.0 MINIMUM STANDARDS FOR ALL GROUND WATER SUPPLIES

3-8.1 LOCATION. The horizontal distance between the well and the potential sources of pollution or contamination, such as septic

tanks, lateral fields, pit privy, seepage pits, fuel or fertilizer storage, pesticide storage, feed lots or barnyards shall be in keeping with TABLE I of this code.

3-8.2 CONSTRUCTION. All wells that are to serve as a source of private or semi-public water shall be constructed in accordance with State Administrative Regulations included under 28-30-6 as amended.

3-8.3 GENERAL OPERATING REQUIREMENTS.

3-8.3.1 WATER WELL RECORD. Within thirty (30) days after construction or reconstruction of a water well, the water well contractor shall submit a report of such work to KDH&E and to the landowner on the water well record form, (Form WWC-5), provided by KDH&E. The contractor shall report to KDH&E and to the landowner, on the water well record or attachments, any polluted or other noncompliant conditions which the contractor was able to correct and any conditions which the contractor was unable to correct. The contractor shall report to KDH&E and the landowner the plugging of any abandoned water well. The report shall include the location, landowner's name, method, type of plug material, its placement and amount used to plug the abandoned water well.

Within thirty (30) days after construction or reconstruction

of a water well, the landowner shall submit a report of such work to KDH&E on the water well record form, (Form WWC-5), provided by KDH&E. The landowner shall report to KDH&E, on the water well record or attachments, any polluted or other noncompliant conditions which the landowner was unable to correct. The landowner shall report to KDH&E the plugging of any abandoned water well. The report shall include the location, landowner's name, method, type of plug material, its placement and amount used to plug the abandoned water well.

3-8.3.2 ARTIFICIAL RECHARGE AND RETURN. The construction of artificial recharge wells and freshwater return wells shall comply with all applicable rules and regulations of KDH&E.

3-8.3.3 WELL TESTS. When a pumping test is run on a well, results of the tests shall be reported on the water well record, (Form WWC-5), or a copy of the contractor's record of the pumping tests shall be attached to the water well record.

3-8.3.4 WATER SAMPLES. Within thirty (30) days after receipt of the water well record, (Form WWC-5), KDH&E may request the contractor, or landowner who constructs or reconstructs his or her own water well to submit a sample of water from the well for chemical analysis.

3-8.4 PLUGGING OF ABANDONED WELLS, CASED AND UNCASED TEST HOLES.

All water wells abandoned by the landowner on or after July 1, 1979, and all water wells that were abandoned prior to July 1, 1979 which pose a threat to groundwater supplies, shall be plugged or caused to be plugged by the landowner. This shall be done in accordance with State Administrative Regulation 28-30-7 as amended.

3-8.5 POLLUTION SOURCES. All wells used as sources of water for nonpublic water supplies shall be separated from the specified sources of pollution by distances equal to or greater than those shown in Table I. Such distances may be increased by the Administrative Agency to provide assurance that the well will not be contaminated.

TABLE I

Minimum Separation Distance Between Nonpublic Water Supply
Wells and Sources of Pollution

<u>Source of Pollution</u>	<u>Minimum Separation*</u>	<u>Recommended Separation</u>
Subsurface absorption field for septic tank effluent.....	50 feet	≥ 100 feet
Pit privy.....	50 feet	≥ 100 feet
Septic tank.....	50 feet	≥ 100 feet
Barnyards, stables, manure piles, animal pens, etc.....	50 feet	≥ 100 feet
Streams, lakes, and ponds.....	25 feet	≥ 25 feet
Sewer lines, not constructed of cast iron or other equally water tight construction.....	50 feet	≥ 100 feet
Sewer lines constructed of cast iron or other equally water tight construction.....	10 feet	10 feet

* As required by K.A.R. 28-10-101

3-8.6 WATER WELL DISINFECTION FOR WELLS CONSTRUCTED OR RECONSTRUCTED
FOR HUMAN CONSUMPTION OR FOOD PROCESSING. Disinfection
standards set forth in state Administrative Regulations
28-30-10 as amended are hereby adopted by Nemaha County and
shall apply to all water wells used for public consumption or
food processing.

3-8.7 APPEALS.

a. Requests for exception to any of the foregoing rules and regulations, as set out within this Chapter 3, shall be submitted to the Administrative Agency in writing and shall contain all information relevant to the request.

1. Those requests shall specifically set forth why such exception should be considered.

2. The Administrative Agency may grant exceptions when geologic or hydrologic conditions warrant an exception and when such an exception is in keeping with the purposes of the Kansas Ground Water Exploration and Protection Act; provided, however, no such exception shall be granted without a prior written concurrence of KDH&E.

b. Appeals from the decision of the Administrative Agency shall be made to the District Court, who after due consideration may affirm, reverse or modify the decision.

SECTION 3-9.0 EXCEPTIONS.

Recent oil and gas exploratory holes have encountered strong flows of saltwater from depths of 130-to-160 feet below ground level in an area in Nemaha County. The following restrictions shall apply to anyone who constructs, treats, or plugs any water well or test hole within T2S-R14E township of Nemaha County:

- a. You may construct, reconstruct, treat or plug any water well, or test hole within this area, with the stipulation that all holes and borings do not penetrate through the unconsolidated formations (glacial tills, outwash, alluvial and colluvial deposits associated with valley fills),
- b. Prior to the drilling of any test hole or the construction or reconstruction of any water well into or below the consolidated strata, underlying the unconsolidated formations, you must first contact KDH&E, Bureau of Oil Field and Environmental Geology to obtain approval to proceed. Approval may be granted to drill to a specified depth for that specific well site location by researching available water well information in our office. KDH&E will assist you in determining the maximum depth a boring may be completed to avoid intercepting the pressurized zone. It will be necessary for you to provide the legal location of the well or test hole location, and
- c. KDH&E requires that groundwater samples be collected and sent to the Topeka Office for quality analysis. At least a quart sample of groundwater shall be collected and submitted to KDH&E from any test holes and all water wells that may be

constructed or reconstruct within the township. It is necessary that the collected samples arrive at KDH&E within one (1) week of collection so that deterioration of the minerals will not occur, thus altering the results of the analysis to reflect inaccurate concentrations. The groundwater samples will assist KDH&E efforts to monitor the groundwater quality in this area, and to better define the lateral extent of the shallow pressurized saltwater zone.